

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW MEXICO**

**JOSE JIMENEZ,**

**vs.**

**No. CIV-09-416 MCA/DJS**

**SMITH & NEPHEW, PLC, and  
SMITH & NEPHEW, INC.,**

**Defendants.**

**ORDER**

**THIS MATTER** comes before the Court upon Defendants' Motion to Extend LR-CV 26.6 Deadline for Motion to Compel Discovery filed August 28, 2009 (Docket No. 20). Briefing was completed on this motion as of October 19, 2009 (Docket No. 32). By this motion, Defendants seek to extend the twenty-day deadline imposed by D.N.M.LR-Civ. 26.6 for filing motions to compel following the receipt of discovery responses.

Plaintiff asserts that he submitted his responses to the discovery requests at issue on August 7, 2009 and that Defendants are therefore seeking to file a motion to compel out of time, as such motion would have been due on August 27, 2009. Plaintiff also asserts that Defendants have not shown good cause for the requested extension. Defendants reply that, pursuant to D.N.M.LR-Civ. 5.1, their motion for extension of time or to compel must have been filed by August 31, 2009 or September 1, 2009, depending upon whether the twenty-day period for filing a motion to compel is calculated according to the rule regarding service by mail or by the provision of D.N.M.LR-Civ. 26.6 specifying that motions to compel must be made within twenty days of actual production or inspection of documents.

The Court agrees that the instant motion for extension of time was filed in a timely fashion.

Further, having considered the motion and the parties' respective briefs, the Court finds that the motion is well taken and should be granted. Defendants in fact filed their motion to compel on September 14, 2009 (Docket No. 22). The instant motion for extension of time will be granted and Defendant's motion to compel held to be timely.

**IT IS THEREFORE ORDERED** that Defendants' Motion to Extend LR-CV 26.6 Deadline for Motion to Compel Discovery (Docket No. 20) is granted.



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DON J. SYET  
UNITED STATES MAGISTRATE JUDGE